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CONVENTION ON THE RIGHTS OF THE CHILD

The Convention on the Rights of the Child was adopted in 1989. Drafted by the United Nations Commission on Human Rights, it aims to set standards defending children against the neglect and abuse they face, in different ways, every day and in every country. It is careful to allow for the different cultural, political and material realities of different states. The Convention emphasizes that the primary responsibility for care and protection lies with the family, but its guiding spirit is always the best interests of the child. It has now been ratified by 191 states with only two remaining non-signatories: Somalia and the United States. In this episode of **World Chronicle**, Marjorie Newman-Williams, Deputy Director of the Programme Division at UNICEF and herself a participant at the UN Human Rights Commission Drafting Group on the Convention on the Rights of the Child, discusses what has changed in the lives of children everywhere since the adoption of this Convention.

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ANNOUNCER: From United Nations Headquarters in New York, this is **World Chronicle**, an unedited interview programme about major global issues.

Here now to introduce our guest is the host of today's **World Chronicle**.

LITTLEJOHNS: I'm Michael Littlejohns, and this is **World Chronicle**.

Children are born with fundamental freedoms and the inherent rights of all human beings. This is the basic premise of the Convention on the Rights of the Child, an international human rights treaty that is transforming the lives of children and their families around the globe. First adopted in 1989, today all but two of the world's countries have agreed to meet the standards in this landmark treaty. Even more far-reaching than its legal mandates, the Convention has established new ethical principles and international norms of behaviour towards children.

Our guest today was a participant at the United Nations Human Rights Commission Drafting Group on the Convention on the Rights of the Child. She is Marjorie Newman-Williams, Deputy Director of the Programme Division at UNICEF, the United Nations Children's Fund. Joining me to talk with Ms. Newman-Williams are Judy Lessing of *Radio New Zealand* and Bill Reilly of *United Press International*.

Ms. Newman-Williams, welcome to **World Chronicle**.

Ms. Newman-Williams, which are the countries that have not come on board?

NEWMAN-WILLIAMS: The United States of America and Somalia are the two countries at this point that have not ratified the Convention on the Rights of the Child.

LITTLEJOHNS: And what is the reason – what are the reasons?

NEWMAN-WILLIAMS: Well, I would suppose that in the case of Somalia it's because they don't have a government to ratify on their behalf and in the case of the United States there are, I suppose, multiple reasons. One, there's not a long tradition of ratifying some of these treaties in this country and I don't think it has a very strong constituency at this moment in the United States.

LITTLEJOHNS: The United States is very supportive of UNICEF, your organization, and UNICEF, of course, was the prime mover of the convention isn't that a bit of contradiction there?

NEWMAN-WILLIAMS: Well I think in the eyes of the United States, it's not a

contradiction for them because they are more concerned about how the Convention would impact them nationally. The United States is a very strong supporter of the work UNICEF does in the rest of the world. And so, the two are somewhat distinct, I think, in ....

LITTLEJOHNS: So how will it affect them nationally?

NEWMAN-WILLIAMS: Well, there might be laws inside the United States that would have to be changed if they were to become States Parties to the Convention on the Rights of the Child. One of them could possibly be the issues of juvenile justice – crimes committed by children before the age of 18, the legal age of majority, being tried as adults, at capital punishment imposed. There are things like that would require some ....

LITTLEJOHNS: At the World Trade Organization meeting in Seattle, President Clinton made a big point about child labour, this is one of the elements in the Convention?

NEWMAN-WILLIAMS: The Convention on the Rights of the Child does refer to all forms of exploitation and abuse of children. It's not particular about child labour. It refers to all forms – whether for commercial purposes or otherwise – and so you could say it applies in the case of child labour. What the United States ratified in Seattle was the new ILO Convention, I think it's number 182, on the most extreme forms of child labour which would not be a difficulty for the United States to ratify because their national laws are already conformed to that convention.

LESSING: So we are talking about things, if we go into child labour for just a moment – the children in Pakistan making soccer balls and small children making carpets in certain parts of the Middle East and Asia – that's what you're talking about really, is it?

NEWMAN-WILLIAMS: There is a definition that the ILO has developed on the term, "most extreme forms of child labour" and it refers to child labour that is harmful to the physical, psychological, emotional well-being of the child that is dangerous, like the manufacture of explosives, that puts their morals at risk, like commercial sexual exploitation and so on. So there is a clear definition for the purposes of that Convention on what the term," most extreme forms of child labour" applies to. Interestingly enough, they have included and made reference to children used as soldiers and combatants in armed conflict and they – it's an interesting new take – and they've also referred to forms of labour that deprive children of basic education.

NEWMAN-WILLIAMS: Can we get back to child soldiers just for a moment because that has been an issue that people have been talking about in Uganda and other parts of Africa and in Afghanistan. I understand that the age for child soldiers in the Convention is any child who is under 15 but there's a movement to try to raise that to 18. Where's that going?

NEWMAN-WILLIAMS: There is a movement. It has very broad support from some governments and many NGOs. It's called the Additional Protocol. For the moment, it doesn't seem to be going very much anywhere because there are a number of significant governments in the world, in both the industrial and developing countries, that don't actually support it.

REILLY: Excuse me. One of those countries is the United States, isn't it? They're recruiting at 17, I believe.

NEWMAN-WILLIAMS: Yes. Some of the countries that opposed the Additional Protocol point out that although they recruit below the age of 18, they don't send people below the age of 18 to war and if they weren't able to recruit into their armed forces below the age of 18, many of the forces they use for peacekeeping missions, for sort of non-combatant functions, will be depleted because they, of course, don't use their experienced soldiers for those kinds of things. So there are a number of issues. I don't think that all of them are simply evil and ill-willed. There are some complex national issues that the countries face if they were to support this. That said, of course, because UNICEF would clearly like to see no person below the age of 18 actually have to go to war.

LITTLEJOHNS: I would clearly like to see no person of any age going to war.

NEWMAN-WILLIAMS: Well, we would dream of that, too.

REILLY: Has the Convention spurred any law reforms that you can tell us about?

NEWMAN-WILLIAMS: Yes. Actually that's one of the areas of success. The Convention certainly is historically the most rapidly ratified convention, the one that came into force most quickly, because it was adopted in 1989 by the General Assembly of the United Nations and it entered into force a year later when it had the required number of ratifications – 20 countries. It came in time for the World Summit for Children which

happened when Heads of States came to the UN. Since that time, well over 56 countries have really quite seriously examined their legislation and there are some interesting developments in a country like Brazil, for instance, which was reviewing its constitution at the time that this Convention came into force. The rights of children are protected in the Brazilian constitution. In that country as well, by national law, the national budget has to transparently show what part of national resources, public resources are committed to programmes that benefit children. So this Convention is far more than nice words on a piece of paper. And it's interesting that the vast majority of countries that have ratified have filed their first reports, which again is an encouraging sign.

LITTLEJOHNS: Perhaps it would not be prudent to name names, but surely there are many countries that have signed up or ratified this treaty, this Convention, who are in very serious violation of it. I'm thinking particularly in the area of child labour and sexual exploitation. Is there anything that you can do, the world community can do, to try and alleviate that problem?

NEWMAN-WILLIAMS: In fact, I think that one of the positive things that have happened since the Convention came into force, in spite of the very gross violations, the outrageous things that happen to children in the world, many of these issues that were hidden from view before this Convention came into force are now open. They're discussed. Many of the governments that denied the existence of these problems inside their borders before this Convention will now engage constructively with agencies like UNICEF to find out how to solve the problem. And what that has created is a global movement behind some of these issues. There's the ECPAT. They're NGOs in Asia that work for the end of commercial sexual exploitation.

LITTLEJOHNS: What NGO's? Who are they?

NEWMAN-WILLIAMS: ECPAT. It is a coalition of NGOs based in Bangkok that works to end commercial sexual exploitation of children who are very involved in the global conference in Stockholm a few years ago on this topic. We've had international conferences on child labour, the issue of child disability. Many, many of these issues that people would simply deny and not talk about are actively discussed and in fact, many of the governments have taken measures on issues that the States Party is the government and the people who

often violate these laws are not government. And on the one hand, you have a government doing its very best to bring national laws in and national policies that adhere and then you have individuals within the state that actively violate this. And for developing countries that have limited resources it is a real challenge to enforce these provisions and there is a need for international support around these areas.

LESSING: I think you are inching towards something I want to ask you about. In countries which are extremely poor, with the best will in the world, how can they raise children and everybody else up and not have some of the exploitation that can't exists? Isn't poverty underlying many of the problems.

NEWMAN-WILLIAMS: Yes. I think in the world today poverty is perhaps the first violation of children's rights and I think in the report that UNICEF just issued, we pointed to 600 million children living in situations where they have less than one dollar a day to meet their needs in a world that creates 1.5 trillion dollars on the currency markets. So just to give you a sense of the scale. In countries that are extremely poor, this Convention has an interesting provision where it does refer to the importance of international solidarity, that the rights of children are an international issue and that governments that don't have resources should be able to have some recourse through the international cooperation mechanism, through development assistance, to point out where they are unable to meet the rights, respect the rights of their children. That said, every government has the obligation to demonstrate good faith and so even if their resources are far too limited, in their national budgets, one would expect to see an incremental in the resources given to children. And unfortunately, in the world we still have countries that are poor but the share of national resources going to the military for instance, are so extraordinarily out of proportion with human needs in their country that you really have to ask the question how serious are they.

REILLY: What are the differences between the Declaration of the Rights of the Child and the Convention?

NEWMAN-WILLIAMS: The Declaration is not binding. It's not a legally binding treaty and in fact, in the context of United Nations Human Rights provisions, you had first the Universal Declaration of Human Rights which was then followed by the two covenants – the civil and political and economic, social and cultural – which made the provisions of the

Declaration enforceable legally. And the same thing with the Convention on the Rights of the Child. The Declaration was a set of principles – 1959 – and the Convention which came into force 30 years later made those principles enforceable. But it went way beyond that Declaration, I have to say. The Declaration was ten principles that sort of talked about the welfare of children. The Convention on the Rights of the Child broke new ground in that they recognized children as subjects of rights in their own rights, not because of their future as adults one, but as their rights as people today, as children. To be recognized as citizens and to be protected as citizens. So that was in fact quite ground-breaking.

REILLY: When I was young it used to be children were seen and not heard now they're giving a voice to children.

NEWMAN-WILLIAMS: We would like to give a voice to children and one of the innovations of the Convention on the Rights of the Child is to recognize what they termed the evolving capacity of the child that a child of five is very different from a child of 15 or adolescent as they prefer to be called, and that part of child development is learning to participate constructively in society and those who interact with children needing to understand that you need to create the space for children to learn to be constructive citizens.

LITTLEJOHNS: This is **World Chronicle**. Our guest is Marjorie Newman-Williams, Deputy Director of the Programme Division at UNICEF.

Ms. Newman-Williams, what is the background to the Convention. You have spoken about the Declaration on Human Rights which is much older, how was it decided that the time had come for a Convention on the Rights of the Child? Who were the prime movers? Was UNICEF the leader in this effort?

NEWMAN-WILLIAMS: No, UNICEF has to be very honest here and say that we were the followers. We were brought into this by those who had more foresight than us at the time. First of all, the Government of Poland – it was their initiative. On the eve of the International Year of the Child, which was 1979, they ...

LITTLEJOHNS: But Poland was still a communist country.

NEWMAN-WILLIAMS: Indeed. But Poland has a long history going back a couple hundred years with some very creative writers who spoke about the rights of children well before this has gained currency. And so it was interesting and appropriate that Poland

stepped forward, based on that long tradition, and said it was time to give legal status to the Declaration on the Rights of the Child. So their dream was to have International Year of the Child, which was 1979, adopt and ratify the Convention on the Rights of the Child. So they had moved to attach to that Declaration, implementation provisions. The UN agreed that there should be a Convention, but since 1959 so many other issues had come up that they felt it won't be appropriate just to add ratification clauses but to really explore the issue of children's rights more fully. And this is where remarkable personalities like Canon Joseph Worthman who was the leader of the NGO group on the International Year of the Child.

LITTLEJOHNS: Where is he from?

NEWMAN-WILLIAMS: He is a Catholic priest from Belgium who was for a long time the head of the International Catholic Child Bureau. And just a remarkable man who rallied around him a very broad coalition of NGOs from all religions, all cultures, all regions of the world – Amnesty International, the Anti-Slavery Society – a very broad coalition.

LITTLEJOHNS: Audrey Hepburn, was she involved?

NEWMAN-WILLIAMS: She was involved indeed but she came in when we were wrapping it up. And she, in fact, was in the General Assembly Hall in 1989 for that wonderful event.

LITTLEJOHNS: As Goodwill Ambassador for UNICEF?

NEWMAN-WILLIAMS: As a Goodwill Ambassador for UNICEF indeed.

LESSING: Can I go back to something that Bill was talking about – the question of children being seen and not heard? It's an easy thing to say but you know people really do still believe that there are certain respects that have to be paid to older people. There is a hierarchy within a family and a community. I am not suggesting you have to break things down completely but it does need a new mind set, doesn't it, to listen to younger people?

NEWMAN-WILLIAMS: It does and I must add hastily that the Convention at no point foresee children as sort of usurping parental authority.

LESSING: So, we're okay? We're safe with that?

NEWMAN-WILLIAMS: You're okay, you're safe. The Convention states very clearly that the family is the appropriate forum for the education of the child, that the primary responsible adults for the child and the child's wellbeing are their parents. That said, there

are situations where parents either cannot or will not act in the best interest of their child. And there are occasions when it is appropriate for some other authority to protect the child's best interest. But you have to understand, I think, all adults will work closely with children on the stand that they have something to say and if we take the trouble to listen, we will be inspired and we will be informed and educated. And I think when things happen – horrible things happen -- in society, and anger within young people erupts into the public forum we all ask ourselves why and often it's because we still simply did not listen. We have not created a space for them.

LESSING: Are there any examples of say, children's assemblies or parliaments in that sense?

NEWMAN-WILLIAMS: There are very many.

LITTLEJOHNS: There are model UNs.

NEWMAN-WILLIAMS: There are model UNS but, you know, in a much less grander scale. My feeling about child participation is not the grandstanding that we bring them to do in the forums of international conferences and so on – that has its place when it's appropriate – but it's in the everyday life of those children in their homes, in their communities. It's living in a world where in some situations children head households. In sub-Saharan Africa where adult populations have disappeared because of the HIV/AIDS pandemic, there are 14 and 15-year-old children who run their families, who go to work every day for their siblings. They have no legal protection, they are not recognized by society, they don't vote, their needs are never discussed. There's a children's peace movement in Columbia, twice nominated for Nobel Peace Prize – children who simply feel they have to act to try and resolve the conflict in their communities – and numbers of unsung heroes around the world. So we're not talking about just the public events where you see and hear children, we're talking about that space created for them to engage constructively and to offer what they do have to offer.

REILLY: Now in the preamble, it calls for protection of the child before and after birth how does unify[sic] justify this with the world population fund's programmes and aims?

NEWMAN-WILLIAMS: The Convention does not actually say that in those

words. It used the formula and, as you can imagine, the drafting of the Convention brought together people with extreme views on each end of the spectrum. It talked about the child's right to life, the inherent right to life and that phrase comes from the International Covenant on Civil and Political rights where every human being has the inherent right to life.

LITTLEJOHNS: But this is after birth. I mean this is not an unborn child.

NEWMAN-WILLIAMS: It doesn't say that. It left it unqualified because there were some in the drafting who wanted explicit language to talk about the protection of children's rights before birth and there were those who said they would walk out of the drafting committee if that language was ever adopted. And Professor Lopatka ,who was chairing it, the representative of Poland, in a stroke of genius cited the Covenant on Civil and Political Rights, the child's inherent right to life, the right to survive and develop and it satisfied everybody, which means that you can, on the national level, read into it what you would.

REILLY: You don't count the preamble as part of it?

NEWMAN-WILLIAMS: It is not the binding part of the Convention. The preamble is contextual. It's not the legally binding part of it.

LESSING: What's next? I mean, you've had ten years of this Convention. You've given us some examples of some success and there are areas where you need more success but where do you see, say, ten years from now? Where do you think we might be?

NEWMAN-WILLIAMS: Speaking now as UNICEF, which is a very pragmatic and operational organization working in development, we've come on an interesting journey as an organization and I think there are others in the development community making this journey with us. The NGO, Save the Children, exploring the same ideas and that idea is how do we take principles of human rights and transform them into practical action for children? Not just legal reform, not just policy, but practical action. And that struggle and that effort to understand how human rights and development operates synergistically has led UNICEF to be able to issue guidelines to its field offices last year on developing development programmes from a human rights perspective and what that means in practice. It means that when we act to address the health and nutrition of children, we have to be sure that we are dealing with all children equally. That girls who are often marginalized have the same access

to health and education as boys, that woman's rights to participate in their communities, to have jobs, to control income, to innent property are addressed in the national budget, in the national laws, provisions are made that do not reinforce inherent discriminations in society. So we have begun to look at every problem we face – whether it's a health problem or a water problem, or a chid nutrition problem – from a perspective of equality is there inbuilt discrimination and what we see in the community?

LITTLEJOHNS: You mean gender discrimination.

NEWMAN-WILLIAMS: Gender, or race, or religion, any form of discrimination. Because you often find that the poorest people in a community not only suffer from economic deprivation, but they belong to communities of people who are discriminated against, for whatever reason. And the HIV/AIDS pandemic has made this issue very stark.

REILLY: What about children seeking divorce from their parents?

NEWMAN-WILLIAMS: Those are the things that grab the headlines but they are so rare and I think those children that have done it maybe some lawyers seized the opportunity to make a point that probably needed to be made – and that is that you can't simply abuse children with impunity. I mean, I'm not saying that the cases that came to the press were parents abusing their children. But it makes the point that children do have rights. That said, there is no better person to care for a child than their parents. The state cannot possibly, even the best state in the world, play the role that parents play. And so, long before a court case should come up for children wanting to divorce their parents, there have to be mediation possibilities in society that help children to resolve their difficulties. I've just come through the business of raising two and I think there were times when probably they did want to divorce me. It crossed my mind occasionally, too, but we managed to make it through.

LITTLEJOHNS: Ms. Newman-Williams, I guess on a more sombre note, that most people would agree that what the Taliban are doing in Afghanistan is setting the world back – setting Afghanistan back several centuries. What do you do about a country like that or a government, if you call it a government, or the people at any rate in control – how do you get them to change their egregious behaviour?

NEWMAN-WILLIAMS: You're asking a really very difficult question. UNICEF is

very involved, like the rest of the UN agencies, in grappling with these issues. The complex issues of do we continue as UN agencies to support programmes that actively discriminate against girls or women, can we pull out, do we do greater harm if we disengage? And I think what we are seeing in our cooperation with Afghanistan is an effort on the one hand to uphold principles. UNICEF took the stand, for instance, that in those communities where girls were not allowed to come to school, that UNICEF's resources couldn't be used in those particular schools while retaining our presence in the country as an active player because the moment you disengage you've left the table. And throughout history we've faced – we went through this in Cambodia, or Kampuchea as it was then called, and we've seen that disengaging is not the way to go. And so we have to keep the dialogue going. I think the best thing we can do is empower those who have a stake in that country – the people themselves, the people outside who may have left – to be able to call attention to what is going on and we do have to keep these people at the table talking to us.

LITTLEJOHNS: Ms. Newman-Williams, that's all the time we have. Thank you for being with us on this edition of **World Chronicle**.

Our guest has been Marjorie Newman-Williams, Deputy Director of the Programme Division at UNICEF. She was interviewed by Judy Lessing of *Radio New Zealand* and Bill Reilly of *United Press International*.

I'm Michael Littlejohns. Thank you for joining us. We invite you to be with us for the next edition of **World Chronicle**.

ANNOUNCER: Transcripts of the programme may be obtained free of charge by sending a stamped, self-addressed envelope to **World Chronicle**, United Nations, Room S-827, New York, N.Y., 10017.

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